

Application No. 10/797,995
Amendment Dated September 20, 2005
Reply to Office Action of July 15, 2005

REMARKS/ARGUMENTS

This Amendment is responsive to the Office Action mailed July 15, 2005.

In that Office Action, the Examiner rejected claims 1-14 under 35 U.S.C. §112, first paragraph, on the grounds that the added term “non-foam” was a negative limitation, rejected claims 1-9 under 35 U.S.C. §103(a) as having been “obvious” over U.S. Patent No. 5,882,776 (*Bambara et al.*) in view of newly cited U.S. Patent No. 6,221,451 (*Lauer et al.*), and rejected claim 10 under 35 U.S.C. §103(a) as having been “obvious” over *Bambara* in view of *Lauer* and further in view of U.S. Patent No. 5,211,593 (*Schneider et al.*). Thus, claims 11-14 were only rejected under 35 U.S.C. §112.

In response to the Office Action, Applicant has cancelled claims 1-10 without prejudice, thereby obviating the 35 U.S.C. §103 rejections.

In response to the 35 U.S.C. §112 rejection, Applicant has amended claims 11 and 13 to include the limitations of claim 1, from which they originally depended, but without the negative limitation “non-foam” that was objected to under 35 U.S.C. §112. Applicant has inserted the word “film” between “first polyolefin” and “layer” in the claims, which is not a negative limitation and is expressly found in the specification when describing layers which are not expanded foam. (*e.g.*: p. 2, lines 18-20; p. 5, lines 7-11, p. 6, lines 1-2; p. 6, lines 13-15). As amended, neither independent claim includes a negative limitation. Thus, this Amendment is believed to overcome any objection under 35 U.S.C. §112.

Claims 12 and 14 depend from independent claim 11 and claim 13, respectively. Therefore they are to be construed as incorporating all of the limitations of claims 11 and 13, respectively. Since it is believed that claims 11 and 13, as amended, distinguishes patentably

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from the prior art and are allowable, then their respective trailing dependent claims 12 and 14 must so distinguish and be allowable. *In re Fine*, 837 F.2d 1371, 1376, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988).

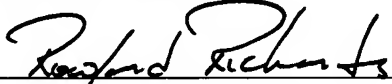
It is respectfully submitted that the foregoing amendments place this case in condition for immediate allowance. As these amendments are believed necessary to secure immediate allowance, Applicant believes that these amendments should be entered pursuant to 37 CFR §1.116.

This Amendment is believed to be fully responsive to the Office Action of July 15, 2005, is believed to squarely address each and every ground for objection or rejection raised by the Examiner, and is further believed to materially advance the prosecution of this application toward immediate allowance.

Formal allowance of claims 11-14 in light of this Amendment is, therefore, courteously solicited.

Respectfully submitted,

PHILLIPS LYTTLE LLP

By 

Rowland Richards, Esq.

Reg. No. 42,104

3400 HSBC Center

Buffalo, New York 14203

Telephone: (716) 847-8400

Telecopier: (716) 852-6100

Attorneys for Applicant(s)

Buffalo, New York

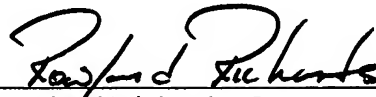
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CERTIFICATE OF MAILING

I certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, this 20th day of September, 2005.

PHILLIPS LYTTLE LLP

By 
Rowland Richards, Esq.
Reg. No. 42,104
Signed: September 20, 2005

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